IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

LA.App..No. 238 of 2004(D)

LAR.131/1994 of III ADDL.SUB COURT, ERNAKULAM
.....

APPELLANT/CLAIMANT:

AMMINI, W/O. GEORGE, AGED 57,
PLAKKIL HOUSE, P.O. KANAYANNUR,
VIA. CHOTTANIKKARA.

BY ADV. SRI.M.P.ABRAHAM (SR.)

RESPONDENT/RESPONDENT:

STATE OF KERALA.

BY GOVERNMENT PLEADER ADV. SHRI MANOJ.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & K.T. SANKARAN, JJ.

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L.A.A. No.238 OF 2004

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Dated this the 6th February, 2007

J U D G M E N T

Kurian Joseph, J:

In view of dismissal of the petition to condone the delay in filing the appeal, this appeal is also dismissed.

KURIAN JOSEPH,
JUDGE.

K.T. SANKARAN,
JUDGE.

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KURIAN JOSEPH & K.T. SANKARAN, JJ.

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C.M. APPLN. No.558 OF 2004
IN L.A.A. No.238 OF 2004

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Dated this the 6th February, 2007

O R D E R

Kurian Joseph, J:

This is an application to condone the delay of 2669 days in filing the appeal. The contention of the petitioner is that from 1995 onwards she was suffering from Arthritis and she was relieved to some extent only in April, 2004. It is also stated that due to the disease she was unable to make necessary arrangements for filing of the appeal and that there is no wilful negligence on her part in not filing the appeal in time.

2. In view of the inordinate delay and in the nature of the order we

propose to pass, it is necessary to extract the affidavit to the extent relevant regarding the explanation for the delay, which reads as follows:

> *"I am suffering from severe Arthritis from 1995 onwards and I am having severe pain for the legs and hands. There was real difficulty for me to walk or to do any normal work because of the acute pain on the legs. I have been suffering from intense pain and difficulties due to chronic Arthritis. I was undergoing a long term treatment . I was relieved to some extent only by April 2004. I was unable to arrange the filing of the Appeal due to my disease and consequent physical disability. I could not enquire regarding the filing of the Appeal and that I was unable to ascertain the date of filing of the Appeal".*

We are afraid that the submission in the affidavit cannot be appreciated. The judgment in the Land Acquisition Reference is dated 11.07.1996. The petitioner was granted enhancement of land value to the tune of Rs. 9,000/- per Are for an extent of 15 Ares with statutory benefits. The decree from the judgment, it is not disputed, was executed, though no whisper regarding the same is made in the affidavit. That apart, it is seen that the application for certified copy of the judgment and decree for the purpose of this appeal was made only on 18.02.2003. There is no

explanation for the delay. Copy was received on 02.04.2003. Yet there is further delay of one year and the sole explanation is that the petitioner was suffering from Arthritis from 1995 onwards and she was relieved to some extent only in April 2004. The appeal was filed on 06.04.2004. Thus it is clear that the petitioner has not stated the whole truth. That apart, there is no satisfactory explanation also for the inordinate delay of more than seven years. Hence this application to condone the delay of 2669 days is dismissed.

KURIAN JOSEPH,
JUDGE.

K.T. SANKARAN,
JUDGE.

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